

**REMARKS**

The examiner should be aware that the following patent and co-pending patent applications disclosed in an IDS have the same ultimate assignee, and relate to similar subject matter, and some of these applications have received office actions:

10/880589 fld 7-1-04 (rejection received)  
7,430,519 Issued 9-30-08  
11/643769 fld 12-22-06  
12/285121 fld 9-29-08  
90/008,803 on Patent No. 6,675,151 (rejection received)

The examiner is invited to review these other co-pending applications as she deems appropriate. An IDS is also included on actual Frontline Placement implementation.

In an abundance of caution, applicants disclose in the concurrently filed Information Disclosure Statement on the Frontline Placement Technologies, Inc. actual implementation for substitute fulfillment using substitute web pages and a first sale of their Frontline Aesop system in July 1999. The Aesop system sold by Frontline in July 1999 did not include the concept of timed visibility (posting a position on the individual worker web pages of a set of one or more preferred workers and only allowing/making available for selection to the preferred workers to accept the position during a specified period of time, and then posting to the individual web pages of a second set of one or more workers if none of the preferred workers has accepted the position within that specified period of time). Pricing for the Frontline Aesop system was not provided to prospective customers until the May-June 1999 time frame. Frontline's (the assignee of the present application) investigation has determined that there is no documentation on when a first reduction to practice occurred for their Aesop system with the individual worker web pages. But this reduction to practice did not include the computer operation of timed visibility. However, a reduction to practice of the present claimed invention by the inventors occurred at least by March 1999. See the declarations of testing of applicants system by third parties as of March 19, 1999 (Jay Boitano Declaration), and as of April 10, 1999 (Sue Lundsford Declaration). These Declarations are attached for convenience. These declarations were previously submitted to the USPTO on April 21, 2004.

For the avoidance of doubt, the Frontline Aesop system first sold in July 1999 did not include the operation of timed availability by computer of positions to individual workers.

The independent claims 88, 97 115 and 117 and dependent claims 116, 118-120 have been cancelled without prejudice. New independent claims 123 and 132 and new dependent claims 124-131 and 133-140 have been added. Claims 89, 91, 98, 101, 105, 108, 121, and 122 have been amended. Accordingly, Claims 89-92, and 98-110, 113, 114, and 121-140 are pending in the application.

Claim 123 now explicitly claims the operation of timed availability by computer of open positions in the context of preferred workers. See the limitation:

*“the one or more computers configured for automatically assigning the new open position only to one of the one or more preferred workers during a specified time period, in substantially immediate response to receipt of an electronic selection of the new open position from one of the one or more preferred workers and substantially immediately removing the position as an available for selection open position.”*

A specified time period is recited, and when that time period lapses, the new open position is made available for selection to one or more additional qualified workers. See the limitation

*“the one or more computers configured for automatically making available for selection the new open position to one or more additional respective worker web pages associated only with one or more additional respective workers that are qualified, if one of the one or more preferred workers has not selected the new open position before expiration of the specified time period; and*

*the one or more computers configured for assigning the new open position, after the expiration of the specified time period, to one of the qualified workers for which the new open position is made available for selection in substantially*

*immediate response to receipt of an electronic selection of the new open position from that qualified worker.”*

Additionally, the claim calls for an electronic filtering component for filtering open positions and posting them on respective web pages associated only with respective qualified workers. See the limitations:

*“one or more computers configured for filtering to determine, for each of a plurality of the respective workers, one or more of the open positions in the one or more databases for which the respective worker is qualified;*

*the one or more computers configured for a plurality of web pages, with each different respective web page in this plurality associated only with a different one of the respective workers and accessible by a respective worker code, wherein, for each respective worker web page associated only with the respective worker, the posting comprising posting one or more of the open positions for which the respective worker is qualified.”*

Additionally, the component for providing a special marking has been removed from the claim and placed in a new dependent claim. Comparable changes have been made to the new independent method claim 132. The basis for these amendments may be found at least at page 4, lines 12-14, page 6, lines 10-17 and page 16, lines 13-16, page 17, lines 1-3, page 18, lines 3-17, page 20, lines 3-4. Note that the “worker code” referenced in the claims may be input by the worker, or the worker’s client may automatically input the worker’s code to access the worker’s respective web page. Note that the term “preferred worker” comprises a worker that has been specifically designated by name, or a worker that has a set of qualifications that are preferred.

Additionally, new dependent claims have been added. For basis for claims 124 and 133, see at least page 6, lines 10-12, page 16, line 10, page 18, lines 13-17. For basis for claims 125 and 134, see at least page 16, lines 12-13. For basis for claims 126 and

135, see at least page 18, line 12. For basis for claims 127 and 136, see at least page 16, lines 13-16. For basis for claims 128 and 137, see at least page 6, lines 8-9, page 16, lines 16-17. For basis for claims 129 and 138, see at least page 6, lines 7-20, page 9, line 2-5, page 15, lines 9-11, page 16, lines 10-17, page 18, lines 3-17, of the '866 specification, and page 2 of 7, 2<sup>nd</sup> paragraph, and page 3 of 7, last paragraph, of provisional application 60/150,001, listed on page 1, line 5, of the '866 specification. For basis for claims 130 and 139, see at least page 6, lines 8-17, page 16, lines 10-17, page 18, lines 15-17, of the '866 specification, and page 2 of 7, 2<sup>nd</sup> paragraph, and page 3 of 7, last paragraph, of provisional application 60/150,001, listed on page 1, line 5, of the '866 specification. For basis for claims 131 and 140, see at least page 6, lines 15-17.

The claims have been rejected under 35 USC 103 over Clark et al. (US 5,164,897) in view of Thompson et al. (US 6,334,133). This rejection is respectfully traversed and reconsideration thereof is requested.

Clark is directed to matching personnel to three sets of job criteria. A first group of employees is obtained by matching job titles and a corresponding employee code. A second group of employees is obtained based on industrial experience. A third group of employees is obtained based on special skills. Then employee records for those employees in all three groups are selected. See the Abstract and Figs. 1a and 1b and the Summary of Invention for Clark.

Regarding claim 123 and claims dependent thereon, Clark discloses nothing about web pages, much less a plurality of worker web pages, with each different respective worker web page associated with only one respective worker. Clark discloses nothing about a timed availability, by computer, of open positions to those respective web pages.

Likewise, there is nothing in Thompson about timed availability by computer of open positions on the respective web pages associated only with the respective workers based on a lapse of a specified time period, e.g., in the context of claim 123 as a whole:

*“one or more electronic databases having information about a plurality of open positions and qualifications for the open positions, and qualifications of a plurality of workers;  
one or more computers configured for filtering to determine, for each of a plurality of the respective workers, one*

*or more of the open positions in the one or more databases for which the respective worker is qualified;*

*the one or more computers configured for posting a plurality of web pages, with each different respective web page in this plurality associated only with a different one of the respective workers and accessible by a respective worker code, wherein, for each respective worker web page associated only with the respective worker, the posting comprising posting one or more of the open positions for which the respective worker is qualified;*

*the one or more computers configured for obtaining information about a new open position;*

*the one or more computers configured for obtaining information about one or more of the workers that are preferred (“a preferred worker”) for the new open position;*

*the one or more computers configured for updating electronically the information in the one or more databases to include information on the new open position;*

*the one or more computers configured for notifying the one or more preferred workers that the new open position is now available for selection by at least posting information about the new open position to each of the respective one or more worker web pages associated only with the one or more respective preferred workers;*

*the one or more computers configured for automatically assigning the new open position only to one of the one or more preferred workers during a specified time period, in substantially immediate response to receipt of an electronic selection of the new open position from one of the one or more preferred workers and substantially immediately removing the position as an available for selection open position;*

*the one or more computers configured for automatically making available for selection the new open position to one or more additional respective worker web pages associated only with one or more additional respective workers that are qualified, if one of the one or more preferred workers has not selected the new open position before expiration of the specified time period; and*

*the one or more computers configured for assigning the new open position, after the expiration of the specified time period, to one of the qualified workers for which the new open position is made available for selection in substantially immediate response to receipt of an electronic selection of the new open position from that qualified worker. ”*

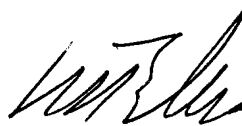
Thompson et al. never made the crucial discovery that allows a conversion of a telephone calling sequence to a timed availability by computer on selected respective web pages dedicated to respective individual workers, based on the lapse of a specified time period.

As neither Clark nor Thompson et al. disclose or suggest these claimed features, their combination cannot make obvious the claimed invention as a whole. Moreover, there is no reason why one of ordinary skill in this art would make a combination of these disparate references, or how such a combination would be made, or what features to select to make such a combination, and such combination would still be deficient. Thus, claim 123 and claims dependent thereon are allowable. Method claim 132 and claims dependent thereon are allowable for the similar reasons.

Reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.

Respectfully submitted,



---

William T. Ellis  
Attorney for Applicant  
Registration No. 26,874

March 12, 2009

Date

FOLEY & LARDNER LLP

Customer Number: 22428

Telephone: (202) 672-5485

Facsimile: (202) 672-5399